

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

AXEL CRESPO-GUTIERREZ,

Plaintiff,

vs.

ANA MARIA RESENDIZ RAMIREZ,

Defendant.

Case No. 2:14-cv-00175-GMN-CWH

**ORDER**

This matter is before the Court on Plaintiff's Second Motion/Application for Leave to Proceed *In Forma Pauperis* (#3), filed on March 5, 2014. In addition, this matter is also before the Court on Plaintiff's Motion for Clarification (#4), filed on March 5, 2014.

**I. In Forma Pauperis Application**

Pursuant to 28 U.S.C. § 1914(a), a filing fee of \$350.00 is required to commence a civil action in federal district court in addition to a \$50 administrative fee, effective May 1, 2013, for a total of \$400. The court may authorize the commencement of an action "without prepayment of fees and costs or security therefor, by a person who makes affidavit that [s]he is unable to pay such costs or give security therefore." 28 U.S.C. § 1915(a).

On February 3, 2014, the Court denied without prejudice Plaintiff's First Motion/Application for Leave to Proceed *In Forma Pauperis* for lack of sufficient information and granted him 30 days to file a new application. See Order #1. Plaintiff filed his Second Motion/Application, which suffers from the same lack of information to determine whether he is eligible to proceed *in forma pauperis*. Plaintiff reports that he has monthly income of \$10.00 in response to question 12, but lists no income in response to question 1. Plaintiff also attaches his inmate banking history. However, Plaintiff failed to use the required form for a prisoner who is requesting *in forma pauperis* status. Accordingly, Plaintiff's Second Motion/Application shall be denied without prejudice and he will be given thirty (30) days to

1 submit a second, completed application **along with a complaint.**

2 **II. Screening the Complaint**

3 Having concluded that Plaintiff is not entitled at this time to proceed *in forma pauperis*, the  
4 Court need not screen the complaint under 28 U.S.C. § 1915(e)(2)(B), which requires the dismissal of  
5 the case at any time if the Court determines that it is frivolous or malicious or fails to state a claim upon  
6 which relief can be granted or seeks monetary relief against a defendant who is immune from such  
7 relief. However, the Court notes that Plaintiff failed to submit a complaint along with his Second  
8 Motion/Application. Plaintiff is ordered to submit a complaint along with his Third  
9 Motion/Application. Failure to do so may result in a recommendation that this action be dismissed.  
10 Additionally, the Court notes that Plaintiff fails to state a cause of action based on federal law. It  
11 appears as though Plaintiff is alleging marriage fraud, but fails to state the federal law that this claim  
12 arises under so federal question jurisdiction under 28 U.S.C. § 1331 does not exist. Therefore, Plaintiff  
13 should be aware of this defect when filing new complaint.

14 **III. Motion for Clarification**

15 Plaintiff filed a Motion for Clarification regarding Order #2. Plaintiff requests verification of  
16 his address because of his concern over a mail delay. He indicates that there was a delay in the mail and  
17 he did not receive the February 3, 2014 Order until February 24, 2014. Plaintiff's address is correctly  
18 listed on the docket and no change needs to be made. Additionally, Plaintiff requests advice regarding  
19 the Court's note about the deficiencies in the complaint. Given that the Court has not screened the  
20 complaint and Plaintiff failed to file points and authorities in accordance with Local Rule 7-2, the Court  
21 will deny Plaintiff's request for clarification.

22 Based on the foregoing and good cause appearing therefore,

23 **IT IS HEREBY ORDERED** that Plaintiff's Second Motion/Application to Proceed *In Forma*  
24 *Pauperis* (#3) is **denied without prejudice.**

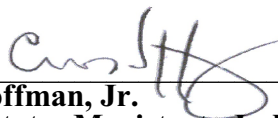
25 **IT IS FURTHER ORDERED** that the Clerk of the Court shall mail a blank copy of the form  
26 for a **prisoner** filing a Motion/Application to Proceed *In Forma Pauperis* to Plaintiff at the following  
27 address:  
28

1 Axel Crespo-Gutierrez  
6564 State Hwy 96 - 137440  
2 Olney Springs, CO 81062

3 **IT IS FURTHER ORDERED** that Plaintiff shall have until **Wednesday, April 7, 2014**, to file  
4 a new, completed Application to Proceed *In Forma Pauperis* along with a complaint. In the alternative,  
5 Plaintiff may make the necessary arrangements to pay the filing fee of four hundred dollars (\$400),  
6 accompanied by a copy of this Order. Failure to comply with this Order will result in a  
7 recommendation to the District Judge that this action be dismissed.

8 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Clarification (#4) is **denied**.

9 Dated this 6th day of March, 2014.

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12   
13 **C.W. Hoffman, Jr.**  
**United States Magistrate Judge**